IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7743 OF 2007

Sahyadri Sahakari Sakhar
Karkhana Limited, District
Satara. ..Petitioner

Vs.

Mr. Bhaskarrao Sayajirao Jagdale ..Respondent

Mr. M.S. Topkar for petitioner.
Mr. N.A. Kulkarni for respondent.

CORAM: B.H. MARLAPALLE, J.

Date : November 26, 2007.

P.C.:

1. Heard Mr. Topkar the learned counsel for the petitioner - Karkhana. The respondent-employee was dismissed from service by way of punishment consequent to the disciplinary proceeding initiated on the basis of the charge-sheet dated 14/15th July, 1997 and, therefore, he challenged the said action by filing Complaint (ULP) No. 85 of 1998. In the course of deciding the complaint on merits, the learned Judge of the Labour Court had framed the preliminary issue

regarding the legality and fairness of the enquiry proceedings as well as whether the findings of the Enquiry Officer were perverse. By her order dated 20/2/2006 the learned Judge of the Labour Court decided against the Karkhana and held that the enquiry conducted was not legal and valid and the findings recorded by the Enquiry Officer were perverse. This order came to be challenged in Revision Application (ULP) No. 38 of 2006 and the same has been dismissed by the learned Member of the Industrial Court at Satara. Hence, this petition under Article 227 of the Constitution.

2. A copy of the charge-sheet dated 14/15th July, 1997 is placed on record at Annexure "A" to the petition memo and the sum and substance of the charge is that the respondent-employee, while discharging his duties as a Time Keeper was negligent while preparing the salary slip for the period from January 1986 to September, 1996 and this negligence on his part caused loss of Rs.7209.55 to the Karkhana. The details of this purported calculation were annexed to the charge-sheet and copies of the same have also been

brought on record. These statements are in respect of in all nine employees and the very first statement in respect of Shri Sunil Madhavrao Mane shows that the salary calculation for the month of January 1986 to March 1986 was so wrong that an amount of Rs.1.45 was paid to him in excess for leave and in terms of bonus for an amount of Rs.4.20. The Labour Court noted that the employer-Karkhana waited for almost 10 years and issued the charge-sheet. The Labour Court was satisfied that the principles of natural justice were not complied in conducting the enquiry and the findings of the Enquiry Officer were not supported by the evidence. The learned Member of the Industrial Court agreed with these findings and the reasons in support thereof. It is also pertinent to note that the respondent - employee had specifically stated in his complaint that in the elections held in March 1997 for Zilla Parishad, Satara, the complainant alongwith others canvassed for the candidates of the group of member of Parliament and, therefore, subsequently some material was collected to get rid of him.

3. Be that as it may, the impugned order does not

come in the way of the petitioner - Karkhana in conducting a de novo enquiry and prove the charges before the Labour Court and in any case such a liberty has not been taken away.

4. Hence, there is no case made out to cause interference under Article 227 of the Constitution and the petition is rejected. Trial of the pending complaint i.e. Complaint (ULP) No. 85 of 1998 is hereby expedited and the complaint be decided preferably within six months from the receipt of writ by the Labour Court. It is made clear that the fresh enquiry will be on the basis of the charge-sheet dated 14/15th July, 1997.

5. Writ to go forthwith.

(B.H. Marlapalle,J.)